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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,530	12/30/2006	Bernhard Braunecker	16455.14	1404
57137 7590 03/06/2008 WORKMAN NYDEGGER 60 E. SOUTH TEMPLE SUITE 1000 SALT LAKE CITY, UT 84111				
EXAMINER				
BRAINARD, TIMOTHY A				
ART UNIT		PAPER NUMBER		
3662				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,530

Applicant(s)

BRAUNECKER ET AL.

Examiner

TIMOTHY A. BRAINARD

Art Unit

3662

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13, 15-18 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 11-13, 15, 16 and 20-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being anticipated by Morimoto (US 4450460) in view of Cho et al (US 5633706). Morimoto teaches (claim 11) a distance meter for telescope arrangements in earth- or space-supported applications for the measurement of surfaces comprising a radiation source for the emission of electromagnetic radiation a receiver unit including a sensor for receiving radiation reflected by a target and for deriving distance information from the received radiation (abs, fig 9, and col 10 lines 33-46); and a first spatial filter component being formed and arranged so that the angular range of reception of the reflected radiation is limited (col 9, 47-60), a spectral filter component located upstream of the spatial filter component in the receiving direction and reflecting wavelength for screening background radiation and for reducing heating up of the distance meter (fig 9 and col 9, lines 47-60), (claim 12) the source is a laser for producing light for surveying the target (col 9, lines 47-60), and (claim 13) deriving the distance using pulse transmit time method (col 9, lines 47-60). Morimoto does not teach the spectral filter reflects infrared radiation. Cho teaches the spectral filter being an infrared filter (fig 2a). It would have

been obvious to modify Morimoto to include the spectral filter being an infrared filter because it is one of multiple design choices with no new or unexpected result.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Cho as applied to claim 11 above, and further in view of Ibsen et al (US 2003/0067645). Ibsen teaches the spatial filter component includes an optical fiber having a micro-lens located upstream in the receiving direction. It would have been obvious to modify Morimoto in view of Cho to include the spatial filter component includes an optical fiber having a micro-lens because it is one of multiple design choices with no new or unexpected result.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Cho as applied to claim 11 above, and further in view of Martinsson (US 2004/0213527). Martinsson teaches the spatial filter component includes a fiber laser having a multimodal and an active fibre core (abs). It would have been obvious to modify Morimoto in view of Cho to include the spatial filter component includes a fiber laser having a multimodal and an active fibre core because it is one of multiple design choices with no new or unexpected result.

Claim 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Martinsson and Abe (US 2004/0246495). Morimoto teaches (claim 1) a distance meter for telescope arrangements in earth- or space-supported applications for the measurement of surfaces comprising a radiation source for the emission of electromagnetic radiation a receiver unit including a sensor for receiving radiation reflected by a target and for deriving distance information from the received

radiation (abs, fig 9, and col 10 lines 33-46); and a first spatial filter component being form and arranged so that the angular range of reception of the reflected radiation is limited (col 9, 47-60), a spectral filter component located upstream of the spatial filter component in the receiving direction and reflecting wavelength for screening background radiation (fig 9 and col 9, lines 47-60), (claim 29) the distance meter does not have any moving components (fig 9). Morimoto does not teach a fiber laser having a multimodal sheath and an active fiber core or the spectral filter being an ultraviolet filter. Martinsson teaches the spatial filter component includes a fiber laser having a multimodal and an active fibre core (abs). It would have been obvious to modify Morimoto to include the spatial filter component includes a fiber laser having a multimodal and an active fibre core because it is one of multiple design choices with no new or unexpected result. Abe teaches the second spectral filter component including a UV filter. It would have been obvious to modify Morimoto to include the second spectral filter component including a UV filter because it is one of multiple design choices with no new or unexpected result.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Cho as applied to claim 11 above, and further in view of Sauter (US 6111692) and Billmers et al (US 6724467). Sauter teaches a second filter component located upstream of the first spectral filter component in the receiving end (col 17, line 62 to col 18, line 18). Billmers teaches the filter being a narrowband filter (col 3, lines 52-60). It would have been obvious to modify Morimoto in view of Cho to include a

narrowband filter component located upstream of the first spectral filter component in the receiving end because it would further filter the return signal.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Cho in view of Sauter and Billmers as applied to claim 21 above, and further in view of Jupp et al (US 2004/0130702). Jupp teaches the narrowband spectral filter component includes a spectral width of less than 1 nm about the wavelength of the emitted radiation (para 1075). It would have been obvious to modify Morimoto in view of Cho in view of Sauter and Billmers to include the narrowband spectral filter component includes a spectral width of less than 1 nm about the wavelength of the emitted radiation because it is one of multiple design choices with no new or unexpected result.

Claim 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Cho in view of Sauter and Billmers as applied to claim 21 above, and further in view of Popescu et al (US 6181412). Popescu teaches a fabry-poret interferometer as the spectral filter component (col 3, lines 32-45). It would have been obvious to modify Morimoto in view of Cho in view of Sauter and Billmers to include a fabry-poret interferometer as the spectral filter component because it is one of multiple design choices with no new or unexpected result.

Claim 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Cho as applied to claim 11 above, and further in view of Sauter (US 6111692). Sauter teaches a second spatial filter component located upstream of the first spectral filter component in the receiving end (col 17, line 62 to col 18, line 18). It

would have been obvious to modify Morimoto in view of Cho to include a second spatial filter component located upstream of the first spectral filter component in the receiving end because it would further filter the return signal.

Claim 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Cho in view of Sauter as applied to claim 25 above, and further in view of Noriaki et al (Improvement of laser-beam). Noriaki teaches the two spatial filters include a coordinated multi-lens array being fixed by a hexagonal honeycomb-like structure (abs and intro). It would have been obvious to modify Falk in view of Sauter to include the two spatial filters include a coordinated multi-lens array being fixed by a hexagonal honeycomb-like structure because each is one of multiple design choices with no new or unexpected results. It would have been obvious to modify Morimoto in view of Cho in view of Sauter in view of Noriaki to include a multi-lens array to be formed out of ZnSe plate and the honeycomb-structure to comprise beryllium because each is one of multiple ways to implement a broad teaching with no new or unexpected result.

Claim 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto in view of Martinsson and Abe as applied to claim 20 above, and further in view of Cho. Cho teaches the spectral filter being an infrared filter (fig 2a). It would have been obvious to modify Morimoto in view of Martinsson and Abe to include the spectral filter being an infrared filter because it is one of multiple design choices with no new or unexpected result.

Allowable Subject Matter

Claims 17 and 18 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 11-13, 15-16, and 20-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TIMOTHY A. BRAINARD** whose telephone number is (571)272-2132. The examiner can normally be reached on Monday - Friday 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TAB

/Thomas H. Tarcza/

Supervisory Patent Examiner, Art Unit 3662